

**REMARKS**<sup>1</sup>

By this Amendment, Applicants have amended claims 28-32 to more appropriately define the invention. Claims 28-32 remain pending.

In the Office Action, the Examiner rejected claims 28-32 under 35 U.S.C. § 103(a) as unpatentable over Japanese Patent No. 10-245183A (JP '183) in view of Smille, III (U.S. Patent No. 4,941,797, "Smille").

Applicants first submit that the Examiner improperly relied on Smille in rejecting claims 28-32 under 35 U.S.C. § 103(a), because Smille is a non-analogous art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 UPSQ2d 1443, 1445 (Fed. Cir. 1992); M.P.E.P. § 2141.01(a). The present invention is generally directed to double deck elevators, while Smille describes a power-operated lift and presenting mechanism that may be used to assist a person to load or unload heavy and bulky articles in a trunk of an automobile. See Smille, col. 6, ll. 33-38. Smille is clearly not "in the field of applicant's endeavor." Moreover, the present invention addresses the problems of quietness and comfortableness in upper and lower cages of double deck elevators. See Specification at 1. In contrast, the pertinent part of Smille relied upon by the Examiner, i.e., bellowed covering 82, is used only to "stabilize[ ] the structure of the lift assembly 51." Smille, col. 9, ll. 61-62. Therefore, Smille is not "reasonably pertinent to the particular problem with

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

which the inventor was concerned.” Therefore, Smille is a non-analogous art and the rejection under 35 U.S.C. § 103(a) is improper.

Even assuming, arguendo, that Smille is applicable, the rejection of claims 28-32 under 35 U.S.C. § 103(a) is still improper, because a prima facie case of obviousness has not been established by the Examiner.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. M.P.E.P. § 2143, 8th ed., Revision of May 2004.

Applicants submit that JP ‘183 and Smille, taken alone or in combination, fail to teach or suggest each and every element of the rejected claims. For example, claim 28 recites a double-deck elevator that includes, inter alia,

an upper cage and a lower cage for accommodating passengers,  
respectively, and vertically movable together in a hoistway provided in a building;  
covers for covering a space between the upper cage and the lower cage  
at a doorside, two lateral sides and a backside of the space;

...

wherein at least one of the covers which covers the space at the doorside of the space covers the door driving unit and a top portion of the connecting link and has a first portion extending downwardly from the upper cage and positioned closer to a doorside inner wall of the hoistway than the door driving unit, and a second portion extending from the first portion to the door driving unit and including at least one slit through which the connecting link is inserted.

JP '183 does not teach or suggest each and every element of claim 28. JP '183 only teaches using a sill blocking-up plate 1 that projects when a lower car of a double deck elevator is put in an opening condition. See English Abstract provided by Examiner. JP '183 fails to teach or suggest at least "covers for covering a space between the upper cage and the lower cage at a doorside, two lateral sides and a backside of the space," and therefore also fails to teach or suggest at least "wherein at least one of the covers which covers the space at the doorside of the space covers the door driving unit and a top portion of the connecting link and has a first portion extending downwardly from the upper cage and positioned closer to a doorside inner wall of the hoistway than the door driving unit, and a second portion extending from the first portion to the door driving unit and including at least one slit through which the connecting link is inserted," as recited in claim 28.

Smille fails to cure the deficiencies of JP '183. Particularly, Smille only teaches a power-operated lift and presenting mechanism that may be used to assist a person to load or unload heavy and bulky articles in a trunk of an automobile. See Smille, col. 6, ll. 33-38. The Examiner appeared to have considered Smille's bellowed covering 82 as corresponding to Applicants' claimed "at least one of the covers" and the slit in bellowed

covering 82 shown in Fig. 10 of Smille as corresponding to Applicants' claimed "at least one slit." See Office Action at 2. Applicants respectfully disagree. As shown in Fig. 10, Smille's bellowed covering 82 has an opening on one side which extends through the entire vertical length of bellowed covering 82, as a result of which bellowed covering 82 does not cover any space. Even assuming, arguendo, that bellowed covering 82 does cover a space, Applicants note that, as the Examiner recognized, bellowed covering 82 covers a space between the platform and its base (Office Action at 2), not "a space between [an] upper cage and [a] lower cage" "for accommodating passengers," as required by claim 28.

Therefore, Smille fails to teach or suggest at least "covers for covering a space between the upper cage and the lower cage at a doorside, two lateral sides and a backside of the space," and therefore also fails to teach or suggest at least "wherein at least one of the covers which covers the space at the doorside of the space covers the door driving unit and a top portion of the connecting link and has a first portion extending downwardly from the upper cage and positioned closer to a doorside inner wall of the hoistway than the door driving unit, and a second portion extending from the first portion to the door driving unit and including at least one slit through which the connecting link is inserted."

In view of the above, JP '183 and Smille, taken alone or in combination, fail to teach or suggest each and every element of claim 28. At least on this basis, claim 28 is allowable over JP '183 and Smille.

Claims 29-32 depend from claim 28 and are also allowable at least because of their dependence from an allowable base claim.


In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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\*With limited recognition under 37 C.F.R. § 10.9(b)